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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,643	10/27/2003	William McLain Reller	026296-000310US	4009
20350 7590 07/08/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
HOAR, COLLEEN A				
ART UNIT		PAPER NUMBER		
3622				
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07/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,643

Applicant(s)

RELLER ET AL.

Examiner

COLLEEN HOAR

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 11/7/2007
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

This action is responsive to paper(s) filed on 1/31/2008.

Examiner's note: Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

Status of Claims

Claims 1,11 are amended.

Claim 5 is cancelled.

Claim 22-23 are new.

Claims 2-4,6-10,12-21 remain unchanged.

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-23 rejected under 35 U.S.C. 102(b) as being anticipated by Davis (6,269,361) hereinafter referred to as Davis.

Claim 1, 11, Davis discloses Advertising Web server [14] with advertisers accounts that point to a **plurality of advertiser web pages** [30] (Fig. 1) To participate in the process, **an advertiser**, such as a website promoter, may **access the advertiser's user account through a secure web site**. (Col 5, lines 17-20) In addition, each account includes at least one search listing, each search listing having five components: a description of the web site to be listed, **the Uniform Resource Locator (URL) of the web site**, a search term comprising one or more keywords, a bid amount, and a title for the search listing, (Col 6, lines 19-24). **Receiving from a client computer a request** when the search term is entered into the query box on the search engine by a searcher, (Col6, lines 4-5) The combination of paid and unpaid listings helps ensure that the searcher will receive the most complete and relevant search results. (Col 5, lines 48-50) **A selection process from a plurality of participating advertisers** happens when the rank or **productivity** value is assigned through a process, implemented in software, that establishes an association between the bid amount, the rank, and the search term of a search listing. The process gathers all search listings that match a particular search term, **compares productivity value as it** sorts the search listings in order from highest to lowest bid amount, and assigns a rank to each search listing in order. The highest bid amount receives the highest rank value, the next highest bid amount receives the next highest rank value, proceeding to the lowest bid amount, which receives the lowest rank value. (Col 18, lines 8-10). a searcher clicks on the advertiser's hyperlinked listing in the search result list generated by the search engine. **The requested document is**

delivered to the client as the searcher's click will result in an access request being sent to the advertiser's web site, which will respond by transmitting the advertiser's web page to the searcher's browser. (Col 5, lines 25-30).

Claim 2, Davis discloses The web site promoter first selects a search term comprising one or more **keywords relevant** to the content of the web site to be listed. (Col 5, lines 57-59) In an alternate embodiment of the present invention, the relevance of a bidden search term in a search listing to the corresponding web site may be evaluated using a computer program executing at processor of account management server, where the computer program will evaluate the search term and corresponding web site according to a set of predefined editorial rules. (Col 9, lines 34-41).

Claim 3, Davis discloses The combination of paid and unpaid listings helps ensure that the **searcher will receive** the most **complete and relevant search** results.(Col 5, lines 48-50; Fig. 7).

Claim 4, Davis discloses in a preferred embodiment of the present invention, search engine web server includes a search database comprised of **search listing records used to generate search results** in response to user queries.(Col 9, lines 8-11).

Claim 6,8,14, Davis discloses The score or **value** associated with the advertisement **comes from the bidding process**. The bidding process occurs when an advertiser enters a new bid amount for an existing **search listing** or **keyword** enters a bid amount for a new search listing. Preferably the promoter's bid is then processed real time. This bid amount is compared with all other bid amounts from other promoters for the same search term, and **generates new rank values** for all search listings having that search term. The **rank value determines the position where the promoter's web site description will appear on the search results list page that is generated when the search term is entered into the query box on the search engine by a searcher**. A higher bid will result in a higher rank value and a more advantageous placement, which is preferably near the beginning of the search results list page. (Col 5, lines 62-67; Col 6, line 1-8).

Claim 7, Davis discloses a **decision process** where the higher the bid, the more advantageous the placement in the search result list that is generated when the bidded search term is entered by a searcher using the search engine. The search result list is arranged in order of decreasing bid amount, with the search listing corresponding to the highest bids displayed first to the searcher. (Col 5, lines 35-40)

Claim 9, Davis discloses a web site promoter selects a **search term** and **influences a position within the search result** list generated by that search term by participating in an online competitive bidding process. (Col 4, lines 65-67; Col 5, line 1).

Claim 10, Davis discloses each bid is specific to a search term web site combination and corresponds to a **money** amount that the **advertiser will pay** to the owner of the search **engine each time a searcher clicks on the advertisers hyperlinked listing** in the search result list generated by the search engine. (Col 5, lines 22-27).

Claim 12, Davis discloses a searcher clicks on the advertiser's hyperlinked listing in the search result list generated by the search engine. The searcher's click will result in an access request being sent to the advertiser's web site, which will respond by **transmitting the advertiser's web page to the searcher's browser**. (Col 5, lines 25-30).

Claim 13, Davis discloses More particularly, the present invention relates to a system and method to enable a web site promoter to define a search listing for a search result list select a **keyword or search term relevant** to the promoter's web site, and influence a search result list position for the search listing on an Internet search engine.(Col 4, lines 55-60)

Claim 15, Davis discloses an **advertising web site promoter** may, through the account residing on the account management server, **participate in a competitive bidding process with other advertisers**. An advertiser may bid on **any number list of**

search terms relevant to the content of the advertiser's web site. In one embodiment of the present invention, the relevance of a bidded search term to an advertiser's web site is determined through a manual editorial process prior to insertion of the search listing containing the search term and advertiser web site URL into the database. In an alternate embodiment of the present invention, the relevance of a bidded search term in a search listing to the corresponding web site may be evaluated using a computer program executing at a processor of account management server, where the computer program will evaluate the search term and corresponding web site according to a set of predefined editorial rules.(Col 9, lines 25-41).

Claims 16, 17, Davis discloses in addition the search result list of the present invention is preferably combined with non-paid web site descriptions generated by a conventional Internet search engine, preferably **including listings generated according to mathematics-based database search algorithms** (Col 5, lines 43-47).

Claims 18, 19, 20, 22, Davis discloses preferably, **the rank value is assigned through a process**, implemented in software, that establishes an association between the bid amount, the rank, and the search term of a search listing. The Process gathers all search listings that match a particular search term, sorts the search listings in order from highest to lowest bid amount, and assigns a rank to each search listing in order. The highest bid amount receives the highest rank value, the next highest bid amount receives the next highest rank value, proceeding to the lowest bid amount, which

receives the lowest rank value. Most preferably, the highest rank value is 1 with successively increasing ordinal values (e.g., 2, 3, 4, . . .) assigned in order of successively decreasing rank. The **correlation between rank value and bid amount** is illustrated in Fig. 7, where each of the paid search list entries 710a through 710f display the advertiser's bid amount 750a through 750f for that entry. Preferably, if two search listing having the same search term also have the same bid amount, the bid that was received earlier in time will be assigned the higher rank value. Unpaid listings 710g and 710h do not display a bid amount and are displayed following the lowest-ranked paid listing. Preferably, unpaid listings are displayed if there are an insufficient number of listings to fill the 40 slots in a search results page. **Unpaid listings are generated by a search engine utilizing objective distributed database and text searching algorithms known in the art.**(Col 18, lines 8-32).

Claims 21,23, Davis discloses a higher bid will result in a higher rank value and a more advantageous placement, which is preferably near the beginning of the search results list page. Preferably, **the quantity used in the competitive bidding process is a money amount that the web site promoter will pay to an owner of the Internet search engine each time the advertiser's web site is referred by the search engine.**(Col 6, lines 5-12).

Response to Arguments

Applicant arguments with respect to claims have been fully considered but are not persuasive. The term "requested document" is taken to read on a return of references to searcher on a web page (document). Included on this page are hyperlinks to other "documents", some of which are paid and some of which are unpaid. The "productivity" or rank or value or placement of the reference on the web page document is determined through combinations of mathematical and text searching algorithms and a bidding process. Fees are exchanged when a paid advertisement is delivered to a searcher. Features claimed in applicant's invention are included in Davis.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen Hoar whose telephone number is (571)270-3447. The examiner can normally be reached on Monday- Thursday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey D. Carlson/
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3/26/2008